

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Laguna Niguel in cooperation with the Southern California Regional Rail Authority (SCRRA) to construct a permanent pedestrian underpass at the Laguna Niguel/Mission Viejo Metrolink Station located on the Orange Subdivision at railroad Milepost 193.50 in the City of Laguna Niguel, Orange County.

Application 03-01-021
(Filed January 24, 2003)

O P I N I O N**Summary**

City of Laguna Niguel (City) in cooperation with the Southern California Regional Rail Authority (SCRRA) requests authority for a permanent pedestrian underpass at separated grade at the Laguna Niguel/Mission Viejo Metrolink Station located on SCRRA's Orange Subdivision in the City of Laguna Niguel, Orange County.

Discussion

The City and SCRRA's permanent pedestrian underpass built at separated grade at Laguna Niguel/Mission Viejo Metrolink Station is part of the two-platform, side-platform station. The pedestrian crossing is located within the Orange County Transportation Authority's (OCTA) right-of-way.

City built the pedestrian underpass prior to Commission approval. Initially, the City believed the pedestrian crossing was considered a private crossing and not subject to Commission approval. The Commission's Consumer

Protection and Safety Division, Rail Crossing Engineering Section (RCES) informed SCRRA that the pedestrian underpass required Commission authority pursuant to Public Utilities Code, Division 1, Part 1, Chapter 6, Section 1202.

OCTA owns the right-of-way within the project limits, which were originally owned and operated by Atchison, Topeka, and Santa Fe Railway Company. Burlington Northern Santa Fe Railway Company operates freight trains and the National Railroad Passenger Corporation (Amtrak) operates passenger trains over these tracks. SCRRA is a five-county joint powers authority created by Senate Bill 1402 of 1990, under Public Utilities Code Section 130255 pursuant to Government Code Section 6501 et al., to build and operate the Metrolink commuter rail system. In this matter, SCRRA is also acting on behalf of the railroad property owner OCTA. OCTA is a member agency of the SCRRA joint powers authority. Amtrak also operates the Metrolink trains for SCRRA, and SCRRA maintains the tracks.

The permanent grade-separated pedestrian underpass is necessary to improve Metrolink service. SCRRA and OCTA have established commuter rail service within and through the County of Orange from Los Angeles Union Station to a terminal station in Oceanside, San Diego County. In 1992, SCRRA and OCTA included a Laguna Niguel/Mission Viejo Metrolink station in their system expansion plan, with a specific location to be determined later. In 1993, the Cities of Laguna Niguel and Mission Viejo began evaluating the suitability and feasibility of several station sites. Two of the sites studied were located north and south of Crown Valley Parkway, near railroad mileposts 193.1 and 193.5, respectively. In 1997, the site at milepost 193.5 was selected for further design work, with the City assuming the lead agency role in design of the station and SCRRA in the construction of the station.

The City designed a two-platform, side-platform station around the two tracks of the Orange subdivision. The platforms have canopies and other amenities, and the station includes a multi-level plaza with stairs and lifts, a pedestrian underpass of the railroad tracks to connect the two platforms, landscaping, parking areas, lighting and other facilities. Handicapped access is provided by electrical lifts located on both sides of the underpass.

SCCRA is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, as stated in Public Resources (PR) Code Section 21000 et seq. The activities in this decision are part of the Southern California Regional Rail project involving the Counties of Los Angeles, Ventura, San Bernardino, Riverside, Orange and San Diego. SCCRA has determined that the Metrolink projects, which institute or increase passenger or commuter services on rail lines or high-occupancy vehicles lanes already in use, including the modernization of existing stations and parking facilities, are statutorily exempt from reporting requirements of CEQA under PR Code Section 21080(b)(11) and CEQA Guideline Section 15275(a). SCCRA filed a Notice of Exemption for construction and operation of a commuter rail system on September 18, 1991. A copy of the Notice of Exemption is included in Appendix A attached to the order.

The Commission is a responsible agency for this project under CEQA. CEQA requires that the Commission consider that portion of the environmental consequences of a project within its area of expertise that is subject to its discretionary approval. The specific activities that must be conducted by a responsible agency are contained in CEQA Guideline Section 15096.

The Commission reviewed the Notice of Exemption filed by SCRRA. We believe SCRRA reasonably concluded that the proposed project qualifies for

CEQA exemption under PR Code Section 21080(b)(11) and CEQA Guideline Section 15275(a). Accordingly, we adopt the finding of exemption for purposes of our project approval.

RCES inspected the site of the permanent grade-separated pedestrian underpass. After reviewing the need for and the safety of the permanent pedestrian underpass at separated grade, RCES recommends that SCRRA's request be granted.

The application is in compliance with the Commission's filing requirements, including Rule 38 of Rules of Practice and Procedure, which relates to the construction of public highway-rail crossings and separations under a railroad. A site vicinity map of the permanent pedestrian underpass at separated grade at Laguna Niguel/Mission Viejo Station is shown in the application and in Appendix B attached to this order.

In Resolution ALJ 176-3106, dated January 30, 2003 and published in the Commission Daily Calendar on January 31, 2003, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. Since no protests were filed, this preliminary determination remains accurate. Given these developments a public hearing is not necessary, and it is not necessary to revise the preliminary determinations made in Resolution ALJ 176-3106.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. The Commission published a Notice of the Application in the Commission Daily Calendar on January 28, 2003. There were no unresolved matters or protests; a public hearing is not necessary.
2. The City in cooperation with SCRRA requests authority, for a permanent pedestrian underpass at separated grade at the Laguna Niguel/Mission Viejo Metrolink Station located on SCRRA's Orange Subdivision in the City of Laguna Niguel, Orange County.
3. The permanent grade-separated pedestrian underpass at the Laguna Niguel/Mission Viejo Station is necessary to improve Los Angeles-Oceanside Metrolink service.
4. Public convenience, safety and necessity require the permanent pedestrian underpass at separated grade.
5. SCRRA is the lead agency for this project under CEQA, as amended.
6. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's Notice of Exemption.

Conclusions of Law

1. There are no unresolved matters or protests; a public hearing is not necessary.
2. The application should be granted as set forth in the following order.

O R D E R**IT IS ORDERED** that:

1. City of Laguna Niguel in cooperation with the Southern California Regional Rail Authority (SCRRA) is authorized to have a permanent underpass at the Laguna Niguel/Mission Viejo Metrolink Station (Crossing 101OR-193.50)

under the tracks of Orange County Transportation Authority, in the City of Laguna Niguel, Orange County, at the location and substantially as shown by plans attached to the application and Appendix B of this order, to be identified as CPUC Crossing No. 101OR-193.50-BD.

2. Clearances conform to General Order (GO) 26-D and walkways conform to GO 118, except for specific variances granted under Commission Decision 03-04-009, dated April 3, 2003.

3. SCRRA shall notify Rail Crossing Engineering Section of the Consumer Protection and Safety Division in writing, by submitting a completed standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations), within 30 days of this order.

4. The application is granted as set forth above.

5. Application 03-01-021 is closed.

This order becomes effective 30 days from today.

Dated _____, at San Francisco, California.

APPENDIX A
NOTICE OF EXEMPTION

SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY

NOTICE OF EXEMPTION

ORIGINAL REC'D

SEP 18 1991

To: County Clerk
County of Los Angeles
111 North Hill Street
Los Angeles, CA 90012

COUNTY CLERK
BY D. Callahan DEPUTY

Subject: Filing of Notice of Exemption for Southern California
Regional Rail Authority Commuter Rail (SCRRA) System

Contact Person: Richard Stanger

Project Location: Counties of Los Angeles/San Bernardino/
Orange/Ventura/Riverside/San Diego

Attached is an action of the Southern California Regional Rail
Authority adopted on September 13, 1991 approving the Project and
authorizing this Notice of Exemption.

CERTIFICATION

The undersigned, duly qualified Executive Director of the SCRRA
certifies that the attached memo to the SCRRA dated September 13,
1991 and this Notice of Exemption are true and correct copies of
the action adopted at a legally convened meeting of the SCRRA
Commission held on September 13, 1991.

APPROVED:

Richard Stanger
RICHARD STANGER
Executive Director

Date

9/17/91

ATTEST:

Lorraine Host
LORRAINE HOST
Secretary

Date

9/17/91

APPROVED AS TO FORM:

DE WITT W. CLINTON
County Counsel

Nina W. Phillips
NINA W. PHILLIPS
Senior Deputy County Counsel

NOTICE OF EXEMPTION

To: X Office of Planning and Research From: Southern California
1400 Tenth Street Regional Rail
Sacramento, CA 95814 Authority

X County Clerk
County of Los Angeles
111 N. Hill Street
Los Angeles, CA 90012

Project Title: Southern California Regional Rail Project

Project Location - Specific: See Figure 1 attached.

Project Location - City: See Figure 1 attached.

Project Location - County: Counties of Los Angeles, Ventura, San Bernardino,
Riverside, Orange, and San Diego.

Description of Nature, Purpose, and Beneficiaries of Project: The proposed project includes the construction and operation of commuter rail facilities within existing railroad rights-of-way in Los Angeles, Ventura, San Bernardino, Riverside, Orange and San Diego Counties. The proposed commuter rail lines are shown in Figure 1 and include: 1) Moorpark to Los Angeles Union Passenger Terminal (LAUPT) on the Southern Pacific Railroad Coast mainline; 2) Santa Clarita to LAUPT on the tracks of the Southern Pacific Railroad; 3) San Bernardino to LAUPT on the tracks of the Southern Pacific Railroad; 4) San Bernardino to LAUPT on the Santa Fe Pasadena subdivision and Southern Pacific Baldwin Park branch, Yuma Main line and State Street line; 5) Oceanside to LAUPT on the current route of Amtrak's San Diego service and the tracks of the Santa Fe Railway; 6) Riverside to LAUPT on the San Jacinto and San Bernardino Subdivisions of the Santa Fe Railway; 7) San Bernardino to Irvine on existing Santa Fe railroad rights-of-way; 8) Hemet to Riverside on the San Jacinto branch of the Santa Fe Railway; 9) Redlands to San Bernardino on an existing Santa Fe Railway branch line; and 10) Riverside to LAUPT on the Union Pacific Railroad right-of-way. The project also includes a central maintenance facility at the Southern Pacific Taylor Yard north of downtown Los Angeles, and layover facilities in the Cities of Moorpark, Santa Clarita and San Bernardino. The location of these facilities is also shown in Figure 1. The goal of the project is to simultaneously improve regional mobility and air quality by reducing automobile trips. The beneficiaries could include commuters who would use the rail service, persons travelling on streets and highways who would experience less traffic congestion and delay and persons residing in the South Coast Air Basin who would benefit from improved air quality.

Name of the Public Agency Approving Project: Southern California Regional Rail Authority (SCRRA)

Name of Person or Agency Carrying out the Project: SCRRA

Exempt Status (Check One):

- Ministerial (14 Cal. Admin. Code §15268)
 Declared Emergency (14 Cal. Admin. Code §15269[a])
 Emergency Project (14 Cal. Admin. Code §15269[b])
X Statutory Exemption (14 Cal. Admin. Code §§15260 et. seq.)

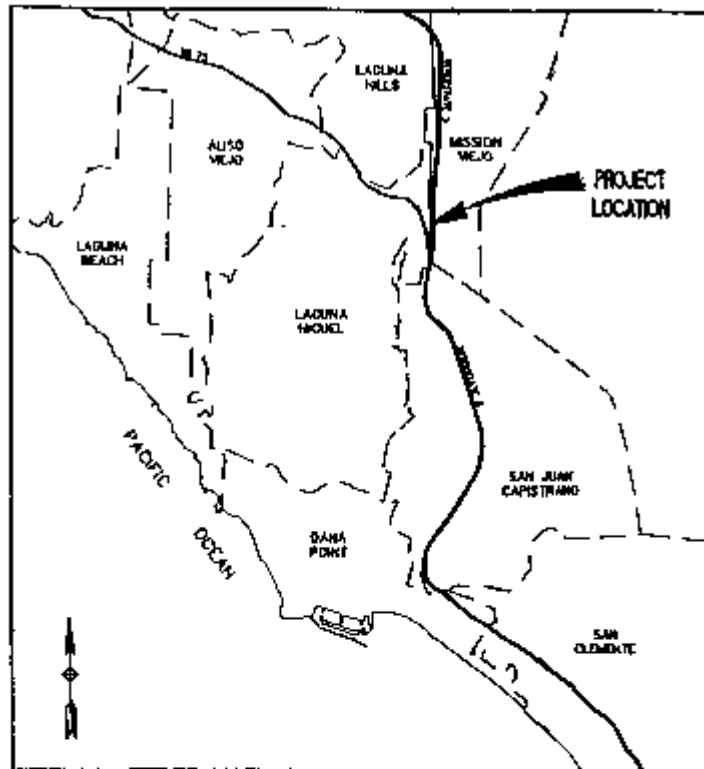
Reasons why the project is exempt: The proposed commuter rail project would institute commuter rail service on existing rail rights-of-way currently in use. According to Sections 21080 (b)(1) and 21275 (a) of CEQA, the institution of commuter services on rail rights-of-way already in use are exempt from the regulations of CEQA.

Contact Person: Richard Stanger Telephone No.: (213) 244 - 8809

Signature: [Signature] Title: Executive Director, SCRA

Date Received for Filing: _____

APPENDIX B
VICINITY MAP AND PLANS



VICINITY MAP

